

AMENDED IN ASSEMBLY MAY 25, 2012

AMENDED IN ASSEMBLY MAY 2, 2012

AMENDED IN ASSEMBLY APRIL 9, 2012

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

## ASSEMBLY BILL

**No. 1917**

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**Introduced by Assembly Member Dickinson**

February 22, 2012

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An act to add Section 38085.5 to, and to add Article 9.5 (commencing with Section 66095) to Chapter 2 of Part 40 of Division 5 of Title 3 of, the Education Code, relating to education finance.

### LEGISLATIVE COUNSEL'S DIGEST

AB 1917, as amended, Dickinson. Education finance: acquisition of food services.

(1) Existing law establishes a system of public education in this state, consisting of the public elementary and secondary schools and the 3 segments of public postsecondary education, which are the California Community Colleges, the California State University, and the University of California. With respect to public elementary and secondary schools, existing law authorizes school district governing boards to establish cafeterias, which are defined as synonymous with food services. With respect to the public postsecondary segments, existing law authorizes them to enter into agreements for the purchase of goods and services, including food services.

This bill would require school district governing boards, the governing board of each community college district, and the Trustees of the California State University, and would request the Regents of the University of California, *that enter into a contract for the acquisition*

*of food services* to develop and adopt policies and procedures for the acquisition of food services to ensure that a service contractor fully discloses to the school district, ~~campus, auxiliary organization, or other unit of the public postsecondary segment, as appropriate,~~ all discounts, rebates, as defined, allowances, and incentives received by the service contractor from its suppliers, as specified, and to disclose and pay to the school district, ~~campus, auxiliary organization, or other unit of the public postsecondary segment, as appropriate,~~ the full amount of the discount, rebate, or applicable credit, as specified.

The bill would require these discounts, rebates, allowances, and incentives to be paid as agreed, and a record of these transactions to be available for review as part of any audit conducted pursuant to statute. The bill would require any necessary changes to the policies and procedures for the acquisition of services to be implemented upon the renewal, extension, or amendment of an existing agreement or as part of a new service agreement.

~~To the extent that this bill would impose new duties on school districts and community college districts, it would constitute a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.~~

Vote: majority. Appropriation: no. Fiscal committee: ~~yes~~-no.  
State-mandated local program: ~~yes~~-no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 38085.5 is added to the Education Code,
- 2 to read:
- 3 38085.5. (a) Notwithstanding any other law, *if the governing*
- 4 ~~board of each a~~ school district ~~maintaining a cafeteria enters into~~
- 5 *a contract for the acquisition of food services, the governing board*
- 6 shall develop and adopt policies and procedures for the acquisition
- 7 of food services that are in accordance with both of the following:
- 8 (a)

1 (1) The policies and procedures for the acquisition of food  
2 services shall ensure that a service contractor fully discloses to the  
3 school district all discounts, rebates, allowances, and incentives  
4 received by the service contractor from its suppliers. If the service  
5 contractor receives a discount, rebate, allowance, or other incentive  
6 from any supplier, the service contractor shall disclose and pay to  
7 the school district the full amount of the discount, rebate, or  
8 applicable credit that is received based on the purchases made on  
9 behalf of the school district. Language stating this requirement  
10 shall be placed in agreements covered by this section.

11 (b)  
12 (2) Any discount, rebate, allowance, or incentive shall be paid  
13 to the school district during a mutually agreed upon timeframe,  
14 and a record of these transactions shall be available for review as  
15 part of any audit conducted pursuant to statute. Any changes  
16 required pursuant to this section shall be implemented upon the  
17 renewal, extension, or amendment of an existing agreement or as  
18 part of a new service agreement.

19 (e)  
20 (b) As used in this section, “rebate” includes any return of  
21 monetary value, including, but not necessarily limited to, a volume  
22 discount, allowance, or discount purchase incentive.

23 SEC. 2. ~~Article 9.5 (commencing with Section 66095) is added~~  
24 ~~to Chapter 2 of Part 40 of Division 5 of Title 3 of the Education~~  
25 ~~Code, to read:~~

26  
27 ~~Article 9.5. Policies and Procedures for Acquisition of Food~~  
28 ~~Services~~  
29

30 ~~66095. (a) Notwithstanding any other law, the governing board~~  
31 ~~of each community college district and the Trustees of the~~  
32 ~~California State University shall, and the Regents of the University~~  
33 ~~of California are requested to, develop and adopt policies and~~  
34 ~~procedures for the acquisition of food services that are in~~  
35 ~~accordance with both of the following:~~

36 ~~(1) The policies and procedures for the acquisition of food~~  
37 ~~services shall ensure that a service contractor fully discloses to the~~  
38 ~~campus, auxiliary organization, or other unit of the public~~  
39 ~~postsecondary segment all discounts, rebates, allowances, and~~  
40 ~~incentives received by the service contractor from its suppliers. If~~

~~the service contractor receives a discount, rebate, allowance, or other incentive from any supplier, the service contractor shall disclose and pay to the campus the full amount of the discount, rebate, or applicable credit that is received based on the purchases made on behalf of the campus, auxiliary organization, or other unit of the public postsecondary segment. Language stating this requirement shall be placed in agreements covered by this section.~~

~~(2) Any discount, rebate, allowance, or incentive shall be paid to the campus, auxiliary organization, or other unit of the public postsecondary segment during a mutually agreed upon timeframe, and a record of these transactions shall be available for review as part of any audit conducted pursuant to statute. Any changes required pursuant to this section shall be implemented upon the renewal, extension, or amendment of an existing agreement or as part of a new service agreement.~~

~~(b) As used in this section:~~

~~(1) “Auxiliary organization” means an entity defined in Section 89901.~~

~~(2) “Rebate” includes any return of monetary value, including, but not necessarily limited to, a volume discount, allowance, or discount purchase incentive.~~

~~SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.~~